

APPEAL NO. 042421
FILED NOVEMBER 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 23, 2004. The hearing officer decided that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability. The claimant has appealed on the grounds that the hearing officer used an incorrect legal standard in determining compensability. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant has asserted that the hearing officer used an incorrect legal standard in determining compensability. Specifically, he refers to the hearing officer's statement that "[t]he lack of a mandatory correlation between pain and injury is particularly important in this case, since a CT scan performed on May 13, 2003,...reveals normal results to claimant's thoracic spine." The claimant correctly argues that we have held that a specific diagnosis is not required to establish damage or harm to the physical structure of the body. Texas Workers' Compensation Commission Appeal No. 992713, decided January 20, 2000. It is clear, however, that the hearing officer was simply trying to find probative evidence of a compensable injury. She considered the reports from the hospital personnel, the results of the CT scan as well as the claimant's own testimony. She stated that she did not find the claimant's statements sufficiently reliable to justify a decision that he sustained a compensable injury. Therefore, it is clear that she did not base her determination simply on a lack of specific connection between the complaint of pain and an injury.

We have reviewed the complained-of determinations and conclude that the issues involved questions of fact for the hearing officer to resolve. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **NEW HAMPSHIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701-2554.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge